

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD DOW, RANDALL HEYD, and
DEBRA HEYD,

Plaintiffs,

v.

RITE-TECH INDUSTRIAL COMPANY,
LTD.,

Defendant.

Case No. C05-5530 RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Plaintiffs' Motion for Costs [Dkt. #18].

Having considered the entirety of the records and file herein, the Court rules as follows:

This is a products liability action wherein plaintiffs allege that a power strip manufactured by defendant caused property damages to a home owned and occupied by plaintiffs. Complaint, para. 11, Dkt. #1. The defendant is a foreign corporation with its principal place of business in Taiwan. *Id.*, para 4. Plaintiffs seek the costs of service on defendant of the summons and complaint under Fed. R. Civ. P. 4(d)(5) because defendant failed to comply with a request for waiver of service.


Fed. R. Civ. P. 4(d) provides that a plaintiff may request and defendant may consent to waive service. The rule also provides that if a defendant fails to waive service, the costs of the service may be shifted to the defendant. However, the rule's cost shifting procedure only applies when both the plaintiff(s) and defendant(s) are located in the United States. Fed. R. Civ. P. 4(d)(2) ("If a defendant located within the

1 United States fails to comply with a request for waiver made by a plaintiff located within the United States,
2 the court shall impose the costs subsequently incurred in effecting service on the defendant . . .”); *see also*,
3 Schwarzer, Tashima, and Wagstaffe, Federal Civil Procedure Before Trial, Ch. 5 § 94, The Rutter Group,
4 2005. Defendant, a corporation with its principal place of business in Taiwan is not “located in the United
5 States” for purposes of the rule. It is therefore,

6 **ORDERED** that Plaintiffs’ Motion for Costs is **DENIED**.

7 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party
8 appearing pro se.

9 Dated this 25th day of May, 2006.

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12 RONALD B. LEIGHTON
13 UNITED STATES DISTRICT JUDGE
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